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BAYER HEALTHCARE LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CRYSTAL A. LEWIS,

Plaintiff,

V.

BAYER HEALTHCARE LLC.

Defendants.

CASE NO. C-03-4403 JSW

**DEFENDANT BAYER
HEALTHCARE'S APPLICATION TO
EXCEED PAGE LIMITS; AFFIDAVIT
OF COUNSEL; PROPOSED ORDER**

DATE: October 28, 2005
TIME: 9:00 a.m.
COURTROOM: 2, 17TH Floor

Honorable Jeffrey S. White

APPLICATION

24 Defendant Bayer HealthCare LLC (“Bayer”) hereby applies, pursuant to United States
25 District Court Local Rule 7-11, for an Order authorizing its filing of its Reply Memorandum of
26 Points and Authorities in Support of its Motion for Summary Judgment or, in the Alternative,
27 Partial Summary Judgment in excess of the 15 page limit set by United States District Court,
28 Civil Local Rule 7.4(b). This Application is based on the grounds that: (1) Due to plaintiff filing

1 her Opposition brief 11 days late (albeit per Court Order), Bayer was given only six days to
 2 respond to the same, rather than seven and lacked the additional editing time that might have led
 3 to compliance with the 15 page limit, (2) the issues addressed in Bayer's Reply Memorandum of
 4 Points and Authorities are all responsive to matters raised in plaintiff's Opposition brief and thus
 5 there will be no prejudice to plaintiff, and (3) no prejudice will befall plaintiff by Bayer's
 6 submission of a brief slightly in excess (only two pages) of the Court's denominated page limits.

7 DATED: October 25, 2005

THE LOUDERBACK LAW FIRM

10 JEROME SCHREIBSTEIN

11 Attorney for Defendant BAYER HEALTHCARE LLC

12 AFFIDAVIT OF COUNSEL

13 1. I am an attorney at law licensed to practice before the United States District Court for
 14 the Northern District of California. I am Senior Counsel to the Louderback Law Firm, counsel of
 15 record for Bayer. I make this declaration based upon my own personal knowledge and if called as a
 16 witness I could and would competently testify thereto.

17 2. I have been the lead attorney for Bayer in this matter since its inception. Defendant
 18 Bayer has raised no new issues in its Reply Memorandum of Points and Authorities; rather
 19 defendant has merely responded to matters raised in plaintiff's Opposition papers. Although
 20 defendant has made every reasonable effort to do so succinctly, the time constraints (six days to
 21 respond as opposed to seven), coupled with the extensive responsive matters raised by plaintiff by
 22 opposition, has required that defendant exceed the 15 page limit by two pages.

23 3. I have substantially prepared Bayer's Reply Memorandum of Points and Authorities
 24 which is 17 pages long. I do not believe the brief can be reduced to 15 pages without sacrificing
 25 significant substantive comment or resorting to electronic manipulation that will render the brief
 26 difficult to read. Accordingly, Bayer seeks to file the brief two pages in excess of the limit set by
 27 United States District Court, Civil Local Rule 7.4(b).

4. On October 24, 2005, I informed plaintiff of Bayer's intent to file the attached Administrative Motion and requested that plaintiff stipulate to the same. As of this date I have not yet received a response from plaintiff.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on October 25, 2005 in San Francisco, California.

JEROME SCHREIBSTEIN

ORDER

GOOD CAUSE APPEARING, pursuant to United States District Court Local Rule 7.11, Bayer is authorized to file its Reply Memorandum of Points and Authorities in Support of its Motion for Summary Judgment or, in the Alternative, Partial Summary Judgment in excess of the 15 page limit set by United States District Court, Civil Local Rule 7.4(b), so long as such brief shall not exceed 17 pages.

Dated: October 26, 2005

HONORABLE JEFFREY S. WHITE
United States District Court Judge

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